

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

**Truth-in-Billing
and
Billing Format**

CC Docket No. 98-170

Petition for Temporary, Limited Waiver

Mid-Century Telephone Cooperative ("Mid-Century"),¹ by counsel, hereby seeks temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.² Specifically, Mid-Century seeks temporary waiver of the requirements of Section 64.2401(a)(2) regarding separating charges by service provider (the "TIB Separate Provider Requirement").³ Mid-Century seeks this waiver until April 1, 2000 because it is technically incapable of rendering a bill that complies with the TIB Separate Provider Requirement by its November 12, 1999 effective date.⁴

¹ Attachment A contains the declaration of Russell D. Schrodt, Interim General Manager of Mid-Century. The declaration bears a facsimile signature. The original signed declaration will be filed upon receipt by counsel.

² In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999) ("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

³ In pertinent part, 47 C.F.R. § 64.2401(a)(2) states that "[w]here charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider. . . ."

⁴ See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

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Mid-Century, which is a member of the United States Telecom Association ("USTA"), recognizes that a pending Petition filed by USTA seeks similar relief for USTA member companies.⁵ Moreover, Mid-Century recognizes that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Mid-Century requests a waiver of the TIB Separate Provider Requirement until April 1, 2000.

Until the requested waiver expires, however, Mid-Century's customer representatives will continue to provide assistance to customers with questions concerning charges from particular carriers. Mid-Century respectfully submits that these actions will ensure that the underlying public interest objectives of the TIB Separate Provider Requirement will be advanced during the time that the requested waiver is necessary and in effect.

I. Background

Mid-Century provides exchange and exchange access services to approximately 4,750 lines in Illinois. Mid-Century is a rural telephone company under the Communications Act of 1934, as amended. Mid-Century uses Communications Data Group ("CDG") as its billing vendor. In May, 1999, after the release by the FCC of its TIB Order, Mid-Century became aware of the various TIB requirements and anticipated relying upon CDG for the necessary

⁵ See Public Notice, DA 99-1616, released August 13, 1999.

software upgrades required by Mid-Century for TIB compliance. Mid-Century is concentrating its efforts on Year 2000 issues.

On November 3, 1999, CDG informed Mid-Century that compliance with the TIB Separate Provider Requirement would be an issue. As soon as this information was received, Mid-Century immediately investigated what specific TIB issues needed to be addressed, and what billing system software upgrades were required for compliance with the TIB Separate Provider Requirement. Mid-Century understands that an estimated delivery date for the necessary software will, according to CDG, be provided soon. Once these upgrades are received, Mid-Century will then undertake appropriate testing to ensure that such compliance is achieved. However, because of the need to comply with other TIB rules by April 1, 2000,⁶ Mid-Century also requests a waiver until that date to comply with the TIB Separate Provider Requirements.⁷ As explained below, the practical problems and existing billing software system limitations confronting Mid-Century associated with implementing the TIB Separate Provider Requirement make compliance infeasible by November 12, 1999.

Mid-Century seeks a waiver of TIB Separate Provider Requirement in light of its billing for non-recurring charges and credits for other carriers. Mid-Century's existing billing system currently aggregates all non-recurring charges and credits in the local section of its bill. However, because Mid-Century provides "1+" billing and collection services for carriers, these carriers' non-recurring charges and credits are printed in the same section of the bill as the non-

⁶ See n.4, supra.

⁷ Mid-Century will supplement this filing once CDG confirms a delivery date for the software required by Mid-Century to comply with the TIB Requirements.

recurring charges and credits for local services offered by Mid-Century. Mid-Century notes, however, that each such charge and credit is labeled by carrier, and that customer inquiries concerning such charges have been minimal. Based on the information received by Mid-Century by CDG, Mid-Century is technically incapable of placing other carrier's non-recurring charges and credits in their respective section of the bill by November 12, 1999 as required by the TIB Separate Provider Requirement.⁸

**II. Good Cause Exists for and the Public Interest
will be Served by a Grant of this Limited Waiver**

Based on these facts and circumstances, Mid-Century respectfully submits that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, Mid-Century's software vendor will not be able to develop the necessary software required to meet the TIB Separate Provider Requirement by this date. Moreover, even assuming the availability of the software upgrades, Mid-Century would not be able to successfully test such upgrades by November 12, 1999. Although Mid-Century understands that CDG will soon be providing an expected delivery date for the necessary software, in light of the other TIB rule requirements being waived until April 1, 2000,⁹ Mid-Century anticipates that compliance with the TIB Separate Provider Requirement should be

⁸ See TIB Order at para. 31.

⁹ See n.4, supra.

possible by April 1, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.¹⁰

Mid-Century also respectfully submits that the public interest would be served by grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.¹¹ The software changes required by Mid-Century clearly fall into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "'forestall' or 'roll back' disfavored regulations, or use this policy for purposes of competitive advantage"¹² are not applicable here. Mid-Century is working with CDG toward TIB compliance and seeks only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that Mid-Century is attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of

¹⁰ "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹¹ See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

¹² Id. at para. 16.

the Mid-Century; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements for other carriers in a manner consistent with the status of the overall TIB compliance efforts by Mid-Century.

Second, the Commission has already determined that the April 1, 2000 date is appropriate for implementing other TIB rules.¹³ Accordingly, the ability of Mid-Century to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the necessary enhancements of its billing system capability without incurring unnecessary expenditures or jeopardizing Year 2000 compliance issues.

Third, the underlying goal of the TIB Separate Provider Requirement -- the ability of a customer to identify a carrier and make inquiry concerning a charge -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, Mid-Century will continue to provide its local telephone number on the bill in order to allow customers to contact Mid-Century about charges.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, customers' concerns regarding carriers' non-recurring charges and credits have been minimal. Moreover, Mid-Century anticipates that its experience will not change during the time that the requested waiver is in place.

III. Conclusion

Because Mid-Century is technically incapable of complying with the TIB Separate Provider Requirement by November 12, 1999, a grant of this request until April 1, 2000 should

¹³ See n.4, supra.

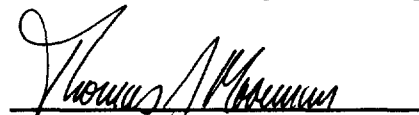
ensure that Mid-Century can implement and successfully test the billing system software upgrades required to implement the TIB Separate Provider Requirement in an efficient manner, while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of the TIB Separate Provider Requirement will not be frustrated by a grant of this request. Rather, such goals will be furthered by Mid-Century as it continues to provide customer assistance and responsiveness when questions are received regarding charges from particular carriers.

Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Mid-Century requests a waiver of the requirements of 47 C.F.R. §§ 64.2401(a)(2) until April 1, 2000.

Respectfully submitted,

Mid-Century Telephone Cooperative

By



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November 9, 1999

**Declaration of Russell D. Schrodt
Interim General Manager of
Mid-Century Telephone Cooperative**

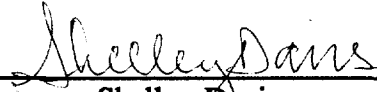
I, Russell D. Schrodt, Interim General Manager of Mid-Century Telephone Cooperative ("Mid-Century"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding Mid-Century is true and accurate to the best of my knowledge, information, and belief.

Date 11/9/79


Russell D. Schrodt
Interim General Manager

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Mid-Century Telephone Cooperative was served on this 9th day of November, 1999 by hand delivery to the following parties:



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